

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

TAMARA FERGUSON and BRIAN HEINZ,
individually and on behalf of others similarly
situated,

Plaintiffs,

v.

T-MOBILE USA, INC.,

Defendant.

No. 2:23-cv-142-JCC

**STIPULATION AND [PROPOSED]
ORDER TO STAY CASE PENDING
THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION'S
RULING ON THE PENDING
MOTION TO TRANSFER**

NOTE ON MOTION CALENDAR:
March 2, 2023

Under Western District of Washington Local Rules 7(d)(1) and 10(g), Plaintiffs Tamara Ferguson and Brian Heinz and Defendant T-Mobile USA, Inc., move the Court to stay all proceedings and deadlines in this action until the Judicial Panel on Multidistrict Litigation (“JPML”) rules on the pending petition to transfer under 28 U.S.C. § 1407 (“Petition”). *See In re T-Mobile 2022 Customer Data Sec. Breach Litig.* (“*In re: T-Mobile*”), MDL No. 3073 (ECF No. 1). If the JPML denies the Petition, T-Mobile’s response to the Complaint will be due 30 days from that denial. In support of this motion, the Parties state:

STIPULATED MOTION TO STAY PROCEEDINGS
(No. 2:23-cv-142-JCC) - 1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 Plaintiffs filed this case on January 31, 2023. *See* ECF No. 1. Plaintiffs allege T-Mobile
2 failed to adequately safeguard the personal information of its customers from a criminal third-party
3 actor. *Id.* The plaintiffs in more than 10 putative class actions have made similar allegations against
4 T-Mobile based on the same data-security incident. *See In re T-Mobile*, MDL No. 3073 (ECF No.
5 1-1). Those cases are pending in at least nine federal judicial districts. *See In re T-Mobile*, MDL
6 No. 3037 (ECF No. 1-2).

7 This Court recently stayed a related case against T-Mobile pending the JPML's transfer
8 ruling. *Dollson v. T-Mobile US, Inc.*, No. 1:23-cv-172 (W.D. Wash. Feb. 28, 2023) (ECF No. 24).
9 And other courts in this district have previously done the same. *E.g., Daruwalla v. T-Mobile USA, Inc.*, No. 2:21-cv-01118-BJR (W.D. Wash. Oct. 29, 2021) (ECF No. 39); *Rogoff v. T-Mobile USA, Inc.*, No. 2:21-CV-01157-BJR, 2021 WL 5279921, at *1 (W.D. Wash. Nov. 12, 2021). Courts in
10 this district have also recognized that conserving resources presents good cause for a stay when
11 there is a pending JPML petition.¹

12 This case was noticed to the JPML as related to *Clark v. T-Mobile US, Inc.*, No. 2:23-cv-
13 00103 (W.D. Wash.). *See In re: T-Mobile*, MDL No. 3073 (ECF No. 1-2). Because it is possible
14 the JPML will grant the pending Petition to transfer and coordinate or consolidate the related
15 cases—including this one—for pretrial proceedings under 28 U.S.C. § 1407, the Parties think
16 staying this case will conserve their resources and the Court's. *See Daruwalla*, No. 2:21-cv-01118-
17

18

19

20 ¹ *See, e.g., Donovan v. T-Mobile USA, Inc.*, No. 2:21-cv-01138-BJR (W.D. Wash. Sept. 20, 2021) (ECF No. 13); *Atkins v. T-Mobile USA, Inc.*, No. 2:21-cv-01179-BJR (W.D. Wash. Sept. 20, 2021) (ECF No. 11); *Hughes v. T-Mobile USA, Inc.*, No. 2:21-cv-01139-BJR (W.D. Wash. Sept. 20, 2021) (ECF No. 15); *Villalon v. T-Mobile USA, Inc.*, No. 2:21-cv-1148-BJR (W.D. Wash. Sept. 20, 2021) (ECF No. 13); *Espanoza v. T-Mobile USA, Inc.*, No. 2:21-cv-1119-BJR (W.D. Wash. Sept. 20, 2021) (ECF No. 30); *Huerta v. T-Mobile USA, Inc.*, No. 2:21-cv-01183-BJR (W.D. Wash. Sept. 29, 2021) (ECF No. 10); *Brackman v. T-Mobile USA, Inc.*, No. 2:21-cv-01277-BJR (W.D. Wash. Oct. 6, 2021) (ECF No. 13); *Schupler v. T-Mobile USA, Inc.*, No. 2:21-01161-BJR (W.D. Wash. Nov. 1, 2021) (ECF No. 9).

21 STIPULATED MOTION TO STAY PROCEEDINGS
22 (No. 2:23-cv-142-JCC) - 2

23
24 **Perkins Coie LLP**
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 BJR (ECF No. 39). Under these circumstances, “[c]ourts frequently grant stays pending a decision
2 by the MDL Panel regarding whether to transfer a case.” *Good v. Prudential Ins. Co. of Am.*, 5 F.
3 Supp. 2d 804, 809 (N.D. Cal. 1998).

4 The Court should grant the Parties a short stay of proceedings until the JPML rules on the
5 Petition. And if the JPML denies the Petition, T-Mobile’s response to the Complaint will be due
6 30 days from that denial.

7 Dated: March 2, 2023

8
9 By: /s/ Kaleigh N. Boyd

10 Kim D. Stephens, P.S., WSBA No. 11984
11 Jason T. Dennett, WSBA No. 30686
12 Kaleigh N. Boyd, WSBA No. 52684
13 **TOUSLEY BRAIN STEPHENS PLLC**
14 1200 5th Avenue, Suite 1700
Seattle, WA 98101
Telephone: (206) 682-5600
kstephens@tousley.com
jdennett@tousley.com
kboyd@tousley.com

15 *Attorneys for Plaintiffs*

16 By: /s/ Lauren J. Tsujii

17 Lauren J. Tsuji, WSBA No. 55839
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Email: LTsuji@perkinscoie.com

18 Kristine McAlister Brown (*Pro Hac Vice*)
Donald Houser (*Pro Hac Vice*)
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
Telephone: (404) 881-7000
Facsimile: (404) 881-7777
E-Mail: kristy.brown@alston.com
donald.houser@alston.com

19
20 *Attorneys for Defendant*
21 *T-Mobile USA, Inc.*

22
23 STIPULATED MOTION TO STAY PROCEEDINGS
24 (No. 2:23-cv-142-JCC) - 3

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

[~~PROPOSED~~] ORDER

IT IS SO ORDERED.

DATED this 3rd day of March 2023.

John C. Coyner, Jr.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

Presented By:

Lauren J. Tsuji, WSBA No. 55839
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Email: LTsuji@perkinscoie.com

Kristine McAlister Brown (*Pro Hac Vice*)
Donald Houser (*Pro Hac Vice*)
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
Telephone: (404) 881-7000
Facsimile: (404) 881-7777
E-Mail: kristy.brown@alston.com
donald.houser@alston.com

*Attorneys for Defendant
T-Mobile USA, Inc.*

STIPULATED MOTION TO STAY PROCEEDINGS
(No. 2:23-cv-142-JCC) - 4

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000